

AMENDED IN SENATE APRIL 4, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 479

Introduced by Senator Block

February 21, 2013

An act to amend Sections 6204, 12153, 12168.7, 12224, 12225, 12227, 12228, 12229, 12230, 12231, 12232, 12233, 12236, 14740, 14745, and 14746 of, to add Article 7 (commencing with Section 12270) to Chapter 3 of Part 2 of Division 3 of Title 2 of, to repeal Sections 12234 and 12235 of, and to repeal Article 3 (commencing with Section 14750), Article 4 (commencing with Section 14755), Article 6 (commencing with Section 14765), and Article 7 (commencing with Section 14769) of, Chapter 5 of Part 5.5 of Division 3 of Title 2 of, the Government Code, and to amend Section 135 of the Labor Code, relating to state records.

LEGISLATIVE COUNSEL'S DIGEST

SB 479, as amended, Block. State government: Secretary of State: duties.

Existing law requires the Secretary of State to appoint a competent person to the position of Keeper of the Archives. Existing law specifies that the Keeper of the Archives is responsible for the preservation and indexing of material deposited in the State Archives, and shall make the material readily available for use.

This bill would change the name of the Keeper of the Archives to the Chief of Archives.

Existing law, the State Records Management Act, provides for the Department of General Services to manage state records, as specified.

This bill would provide that the Secretary of State would manage state records and that the Department of General Services would store state records, as specified.

Existing law provides that the Workers' Compensation Appeals Board may, with the approval of the Department of Finance, destroy or otherwise dispose of a file kept by it in connection with a proceeding regarding workers' compensation and insurance, as provided.

This bill would instead provide that the Workers' Compensation Appeals Board may, with the approval of the Secretary of State, destroy or otherwise dispose of a file kept by it in connection with a proceeding.

This bill would also make technical, nonsubstantive, and conforming changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6204 of the Government Code is amended
2 to read:

3 6204. (a) For purposes of this chapter, the following definitions
4 shall apply:

5 (1) "Archivist" means the Chief of Archives, as specified in
6 Section 12227.

7 (2) "Record" has the same meaning as "public records" is
8 defined in subdivision (e) of Section 6252, and includes, but is not
9 limited to, any writing containing information relating to the
10 conduct of the public's business prepared, owned, used, or retained
11 by a state or local agency regardless of physical form or
12 characteristics.

13 (3) "Secretary" means the Secretary of State.

14 (b) Whenever the secretary, in consultation with the archivist,
15 has reasonable grounds to believe that a record belonging to the
16 state or a local agency is in the possession of a person, organization,
17 or institution not authorized by law to possess that record, the
18 secretary may issue a written notice demanding that person,
19 organization, or institution to do either of the following within 20
20 calendar days of receiving the notice:

21 (1) Return the record to the appropriate state or local agency.

22 (2) Respond in writing and declare why the record does not
23 belong to the state or a local agency.

1 (c) The notice and demand issued pursuant to subdivision (b)
2 shall identify the record claimed to belong to the state or local
3 agency with reasonable specificity, and shall state that the secretary
4 is authorized to take legal action to recover the record if the person,
5 organization, or institution fails to respond in writing within the
6 required time or does not adequately demonstrate that the record
7 does not belong to the state or a local agency.

8 (d) The secretary shall send the notice and demand specified in
9 subdivision (b) by certified or registered mail, return receipt
10 requested.

11 (e) When a record is returned pursuant to paragraph (1) of
12 subdivision (b), upon the request of the person, organization, or
13 institution that returned the record, the secretary or a local agency
14 that receives the record shall issue to that person, organization, or
15 institution a copy or digital image of the record, which shall be
16 certified as a true copy of the record that was returned to the state
17 or local agency, and dated on the same day the record was returned.

18 SEC. 2. Section 12153 of the Government Code is amended
19 to read:

20 12153. The Secretary of State shall appoint a competent person
21 to the position of Chief of Archives.

22 In case of his or her absence or inability to perform the duties
23 of his or her position, the Secretary of State shall designate some
24 other competent person to act in his or her place.

25 SEC. 3. *Section 12168.7 of the Government Code is amended*
26 *to read:*

27 12168.7. (a) The California Legislature hereby recognizes the
28 need to adopt uniform statewide standards for the purpose of
29 storing and recording permanent and nonpermanent documents in
30 electronic media.

31 (b) In order to ensure that uniform statewide standards remain
32 current and relevant, the Secretary of State, ~~in consultation with~~
33 ~~the Department of General Services,~~ shall approve and adopt
34 appropriate standards established by the American National
35 Standards Institute or the Association for Information and Image
36 Management.

37 (c) The standards specified in subdivision (b) shall include a
38 requirement that a trusted system be utilized. For this purpose and
39 for purposes of Sections 25105, 26205, 26205.1, 26205.5, 26907,
40 27001, 27322.2, 34090.5, and 60203, Section 102235 of the Health

1 and Safety Code, and Section 10851 of the Welfare and Institutions
2 Code, “trusted system” means a combination of techniques,
3 policies, and procedures for which there is no plausible scenario
4 in which a document retrieved from or reproduced by the system
5 could differ substantially from the document that is originally
6 stored.

7 (d) In order to develop statewide standards as expeditiously as
8 possible, and until the time that statewide standards are adopted
9 pursuant to subdivision (b), state officials shall ensure that
10 microfilming, electronic data imaging, and photographic
11 reproduction are done in compliance with the minimum standards
12 or guidelines, or both, as recommended by the American National
13 Standards Institute or the Association for Information and Image
14 Management for recording of permanent records or nonpermanent
15 records.

16 ~~SEC. 3.~~

17 *SEC. 4.* Section 12224 of the Government Code is amended
18 to read:

19 12224. The Secretary of State may receive into the archives
20 any item that he or she deems to be of historical value.

21 ~~SEC. 4.~~

22 *SEC. 5.* Section 12225 of the Government Code is amended
23 to read:

24 12225. The Secretary of State may at any time return to the
25 state agency from which it was received any item in the archives
26 which he or she does not deem to be of historical value.

27 ~~SEC. 5.~~

28 *SEC. 6.* Section 12227 of the Government Code is amended
29 to read:

30 12227. The Chief of Archives is responsible for the preservation
31 and indexing of material deposited in the State Archives, and shall
32 make the material readily available for use.

33 ~~SEC. 6.~~

34 *SEC. 7.* Section 12228 of the Government Code is amended
35 to read:

36 12228. The Chief of Archives shall give an appropriate receipt
37 for all material received by him or her as a part of the archives.

38 ~~SEC. 7.~~

39 *SEC. 8.* Section 12229 of the Government Code is amended
40 to read:

1 12229. The Secretary of State may maintain any item in an
2 active file in his or her office for such time as he or she deems
3 proper before transferring it to the archives.

4 ~~SEC. 8.~~

5 SEC. 9. Section 12230 of the Government Code is amended
6 to read:

7 12230. The Secretary of State shall establish a Document
8 Preservation Shop and an Indexing Section to facilitate the
9 preservation and indexing of the archives.

10 ~~SEC. 9.~~

11 SEC. 10. Section 12231 of the Government Code is amended
12 to read:

13 12231. In carrying out the provisions of this article, the
14 Secretary of State shall consult with and give consideration to the
15 recommendations of the California Historical Records Advisory
16 Board, which for that purpose shall serve in an advisory capacity
17 to the Secretary of State.

18 ~~SEC. 10.~~

19 SEC. 11. Section 12232 of the Government Code is amended
20 to read:

21 12232. The Secretary of State shall utilize the California
22 Historical Records Advisory Board to advise, encourage, and
23 coordinate the activities of the county historical records
24 commissions, either designated or appointed by the county boards
25 of supervisors pursuant to Section 26490. The chairman or his or
26 her designee of each county historical records commission may
27 attend an annual meeting, at state expense, to receive advice in the
28 preservation of local government archives and public library
29 collections of historical materials.

30 ~~SEC. 11.~~

31 SEC. 12. Section 12233 of the Government Code is amended
32 to read:

33 12233. The Secretary of State shall conduct under the
34 administration of the State Archives a regular governmental history
35 documentation program to provide through the use of oral history
36 a continuing documentation of state policy development as
37 reflected in California's legislative and executive history. The
38 secretary may contract with oral history units affiliated with public
39 or private nonprofit colleges, universities, or historical societies
40 located in California to perform selected program activities. The

1 secretary shall prescribe professional standards for the
2 accomplishment and governance of the program.

3 ~~SEC. 12.~~

4 *SEC. 13.* Section 12234 of the Government Code is repealed.

5 ~~SEC. 13.~~

6 *SEC. 14.* Section 12235 of the Government Code is repealed.

7 ~~SEC. 14.~~

8 *SEC. 15.* Section 12236 of the Government Code is amended
9 to read:

10 12236. (a) The Secretary of State shall establish a Local
11 Government Records Program to be administered by the State
12 Archives to establish guidelines for local government records
13 retention and to provide archival support to local agencies in this
14 state.

15 (b) The Secretary of State shall establish, publish, update, and
16 maintain on a permanent basis guidelines for local government
17 records retention. The Secretary of State may consult with
18 appropriate professional organizations representing city, county,
19 and special district records administrators regarding the
20 establishment of these guidelines.

21 (c) The program shall be primarily responsible for the
22 performance of the following functions:

23 (1) Publish the guidelines developed pursuant to subdivision
24 (b) in paper form initially and on the Internet web site for the
25 Secretary of State.

26 (2) Monitor and review changes in state laws and administrative
27 regulations that pertain to local government records retention.

28 (3) Monitor practices and procedures in records administration
29 that have bearing on local government records retention and
30 management.

31 (4) Update published guidelines on a current and timely basis
32 as changes occur.

33 (5) Make supporting information about state laws and
34 administrative regulations that pertain to local government records
35 retention available to local government agencies.

36 (6) Function as the liaison for the State Archives with
37 appropriate professional organizations.

38 (7) Maintain communication with individual local government
39 agencies.

1 (8) Consult and provide information and advice to local
2 government agencies on archival and records management
3 practices.

4 (9) Consult and provide information and advice to local
5 government agencies on history and heritage.

6 ~~SEC. 15.~~

7 *SEC. 16.* Article 7 (commencing with Section 12270) is added
8 to Chapter 3 of Part 2 of Division 3 of Title 2 of the Government
9 Code, to read:

10
11 Article 7. State Records Management Act
12

13 12270. This article shall be known as the State Records
14 Management Act.

15 12271. For the purposes of this article, the following terms
16 shall have the following meanings:

17 (a) “Acquire” includes acquisition by gift, purchase, lease,
18 eminent domain, or otherwise.

19 (b) “Archival value” means the ongoing usefulness or
20 significance of a record based on the administrative, legal, fiscal,
21 evidential, or historical information it contains, justifying its
22 permanent preservation.

23 (c) “Public record plant” means the plant, or any part thereof,
24 or any record therein, of any person engaged in the business of
25 searching or publishing public records or insuring or guaranteeing
26 titles to real property, including copies of public records or
27 abstracts and memoranda taken from public records that are owned
28 by or in possession of that person or that are used by that person
29 in his or her business.

30 (d) “Public use form” means a form used by the state to obtain
31 or to solicit facts, opinions, or other information from the public
32 or a private citizen, partnership, corporation, organization, business
33 trust, or nongovernmental entity or legal representative thereof.

34 (e) “Record” means a paper, map, exhibit, magnetic or paper
35 tape, photographic film or print, punched card, and other documents
36 produced, received, owned, or used by an agency, regardless of
37 its physical form or characteristics. Library and museum materials
38 made or acquired and preserved solely for reference or exhibition
39 purposes and stocks of publications and of processed documents

1 are not included within the definition of the term “record” as used
2 in this article.

3 12272. (a) The Secretary of State shall establish and administer
4 a records management program that will apply efficient and
5 economical management methods to the creation, utilization,
6 maintenance, retention, preservation, and disposal of state records.

7 (b) The duties of the Secretary of State shall include, but shall
8 not be limited to:

9 (1) Establishing standards, procedures, and techniques for
10 effective management of records.

11 (2) Obtaining from agencies reports required for the
12 administration of the program.

13 12273. Notwithstanding any other law, a record held in the
14 State Records Center or by a state agency determined by the
15 Secretary of State to have archival value and to be at risk of damage
16 or loss, or in poor physical condition, shall be transferred to the
17 State Archives at the direction of the Secretary of State with
18 notification to the head of the agency not less than 10 days prior
19 to the transfer. The Secretary of State shall enforce all statutory
20 requirements regarding the confidentiality of records transferred
21 to the State Archives pursuant to this section and shall make the
22 records available to authorized individuals or the public, as
23 determined by applicable law.

24 12274. The head of a state agency shall do all of the following:

25 (a) Establish and maintain an active, continuing program for
26 the economical and efficient management of the records and
27 information collection practices of the agency. The program shall
28 ensure that the information needed by the agency may be obtained
29 with a minimum burden upon individuals and businesses, especially
30 small business enterprises and others required to furnish the
31 information. Unnecessary duplication of efforts in obtaining
32 information shall be eliminated as rapidly as practical. Information
33 collected by the agency shall, as far as is expedient, be collected
34 and tabulated in a manner that maximizes the usefulness of the
35 information to other state agencies and the public.

36 (b) Determine, with the concurrence of the Secretary of State,
37 records essential to the functioning of state government in the
38 event of a major disaster.

1 (c) When requested by the Secretary of State, provide a written
2 justification for storage or extension of scheduled retention of a
3 record in the State Records Center for a period of 50 years or more.

4 (d) Comply with the rules, regulations, standards, and procedures
5 issued by the Secretary of State.

6 12275. (a) A record shall not be destroyed or otherwise
7 disposed of by an agency of the state, unless it is determined by
8 the Secretary of State that the record has no further administrative,
9 legal, or fiscal value and the Secretary of State has determined that
10 the record is inappropriate for preservation in the State Archives.

11 (b) The Secretary of State shall not authorize the destruction of
12 a record subject to audit until he or she has determined that the
13 audit has been performed.

14 (c) The Secretary of State shall not authorize the destruction of
15 all or any part of an agency rulemaking file subject to Section
16 11347.3.

17 12276. (a) The public records of a state agency may be
18 microfilmed, electronically data imaged, or otherwise
19 photographically reproduced and certified upon the written
20 authorization of the head of the agency. The microfilming,
21 electronic data imaging, or photographic reproduction shall be
22 made in compliance with the minimum standards or guidelines,
23 or both, as recommended by the American National Standards
24 Institute or the Association for Information and Image
25 Management, and as adopted by the Secretary of State, for
26 recording of permanent records or nonpermanent records.

27 (b) The certification of each reproduction or set of reproductions
28 shall be in accordance with the standards, or have the approval, of
29 the Attorney General. The certification shall contain a statement
30 of the identity, description, and disposition or location of the
31 records reproduced, the date, reason, and authorization for the
32 reproduction, and other information that the Attorney General
33 requires.

34 (c) The certified reproductions shall be deemed to be original
35 public records for all purposes, including introduction in courts of
36 law and state agencies.

37 12277. A person, other than a temporary employee, serving in
38 the state civil service and employed by the Department of General
39 Services in the ~~State~~ *California Records and Information*
40 *Management* Program shall remain in the state civil service and

1 is hereby transferred to the Secretary of State. The status, position,
2 and rights of the person shall not be affected by the transfer and
3 shall continue to be retained by the person pursuant to the State
4 Civil Service Act.

5 12278. All equipment and records in the ~~State California~~
6 *Records and Information Management* Program in the Department
7 of General Services are transferred to the Secretary of State.

8 12279. If a public record of a state agency has been lost or
9 destroyed by conflagration or other public calamity, the Secretary
10 of State may acquire the right to reproduce any portion of a public
11 record plant as is necessary for the purpose of restoring or replacing
12 the record or its substance.

13 ~~SEC. 16.~~

14 *SEC. 17.* Section 14740 of the Government Code is amended
15 to read:

16 14740. This chapter shall be known as the State Records
17 Storage Act.

18 ~~SEC. 17.~~

19 *SEC. 18.* Section 14745 of the Government Code is amended
20 to read:

21 14745. The director shall establish and administer in the
22 executive branch of state government a records storage program
23 that will apply efficient and economical records storage methods
24 to the utilization, maintenance, retention, preservation, and disposal
25 of state records.

26 ~~SEC. 18.~~

27 *SEC. 19.* Section 14746 of the Government Code is amended
28 to read:

29 14746. The duties of the director shall include, but not be
30 limited to:

31 (a) Establishing standards, procedures, and techniques for
32 effective storage of records.

33 (b) Providing appropriate protection for records designated by
34 state agencies, with the concurrence of the director, as essential to
35 the functioning of state government in the event of a major disaster.

36 (c) Obtaining from agencies reports required for the
37 administration of the program.

38 (d) Establishing, maintaining, and operating record centers for
39 the storage, processing, and servicing of scheduled records for

1 state agencies pending their deposit with the State Archives or
2 their disposition in any other manner authorized by law.

3 ~~SEC. 19.~~

4 *SEC. 20.* Article 3 (commencing with Section 14750) of
5 Chapter 5 of Part 5.5 of Division 3 of Title 2 of the Government
6 Code is repealed.

7 ~~SEC. 20.~~

8 *SEC. 21.* Article 4 (commencing with Section 14755) of
9 Chapter 5 of Part 5.5 of Division 3 of Title 2 of the Government
10 Code is repealed.

11 ~~SEC. 21.~~

12 *SEC. 22.* Article 6 (commencing with Section 14765) of
13 Chapter 5 of Part 5.5 of Division 3 of Title 2 of the Government
14 Code is repealed.

15 ~~SEC. 22.~~

16 *SEC. 23.* Article 7 (commencing with Section 14769) of
17 Chapter 5 of Part 5.5 of Division 3 of Title 2 of the Government
18 Code is repealed.

19 ~~SEC. 23.~~

20 *SEC. 24.* Section 135 of the Labor Code is amended to read:

21 135. In accordance with rules of practice and procedure that it
22 may adopt, the appeals board may, with the approval of the
23 Secretary of State, destroy or otherwise dispose of any file kept
24 by it in connection with any proceeding under Division 4
25 (commencing with Section 3200) or Division 4.5 (commencing
26 with Section 6100).